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HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 5217 OF 2005

PETITIONER

Bansal Academy,
303/1, Shastri Colony,
Near Sector – 19,
District Faridabad,
Old Faridabad (Haryana)
Through its Coordinator,
Shri Rakesh Bansal,
S/o Dr. R.D. Bansal,
Aged about 32 years,
R/o 1034, Sector 19,
Faridabad (Haryana).

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through its Secretary,
Department of Higher
Education, Mantralaya,
D.K.S. Bhawan,
Raipur (C.G.)
2. Vice Chancellor,
Pandit Ravishankar Shukla University,
Raipur (C.G)
3. Registrar
Pandit Ravishankar Shukla University,
Raipur (C.G.)
4. Director,
Institute of Distance Education,
Pandit Ravishankar Shukla University,
Raipur

WRIT PETITION NO. 5218 OF 2005

PETITIONER

Sunrise Academy of Education,
Opposite Biroja Factory, College Road,
Una (Himachal Pradesh)
Through its Coordinator,
Shri Mahendra Pal Dongra,
S/o Shri Jagdish Chandra, Aged about
29 years, R/o House No. 412, Vikas
Nagar, Una (H.P.)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through its Secretary,

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Department of Higher
Education, Mantralaya,
D.K.S. Bhawan,
Raipur (C.G.)

2. Vice Chancellor,
Pandit Ravishankar Shukla University,
Raipur (C.G)
3. Registrar
Pandit Ravishankar Shukla University,
Raipur (C.G.)
4. Director,
Institute of Distance Education,
Pandit Ravishankar Shukla University,
Raipur

WRIT PETITION NO. 5477 OF 2005

PETITIONERS

I.P. (P.G.) College,
40, A/L New Colony,
Palwal, Faridabad,
Haryana – 121102
Through its Coordinator,
Shri Surender Singh,
S/o Shri Jang Singh,
Aged about 29 years,
House Nbo. 40 A/L,
New Colony, Palwal,
Faridabad (Haryana)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through its Secretary,
Department of Higher
Education, Mantralaya,
D.K.S. Bhawan,
Raipur (C.G.)
2. Vice Chancellor,
Pandit Ravishankar Shukla University,
Raipur (C.G)
3. Registrar
Pandit Ravishankar Shukla University,
Raipur (C.G.)
4. Director,
Institute of Distance Education,
Pandit Ravishankar Shukla University,
Raipur

WRIT PETITION NO. 5478 OF 2005

PETITIONERS

S.D. Mahavidyalaya,
State Bank Chauraha,
427, Tansen Nagar,

Gwalior (M.P.)
Through its Joint
Secretary, Dr. Chhaviram Singh
Narwariya, S/o Shri Bhagwan Das
Narwariya, Aged about 30 years,
R/o Retifatak, Ramtapura,
Lohamandi, Gwalior (M.P.)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through its Secretary,
Department of Higher
Education, Mantralaya,
D.K.S. Bhawan,
Raipur (C.G.)
2. Vice Chancellor,
Pandit Ravishankar Shukla University,
Raipur (C.G)
3. Registrar
Pandit Ravishankar Shukla University,
Raipur (C.G.)
4. Director,
Institute of Distance Education,
Pandit Ravishankar Shukla University,
Raipur

Present : Smt. Fouzia Mirza, learned counsel for the petitioners.

Shri Utkarsh Verma, learned Dy. Govt. Advocate for the State of Chhattisgarh.
Shri Pramod Verma, learned Sr. Advocate with Shri Sumit Verma, learned counsel for the respondents No. 2 to 4.

ORAL ORDER

(Passed on 22nd February 2006.)

The facts of the case and the legal issues that arise for decision-making in all these writ petitions are substantially similar. Hence, all these writ petitions were clubbed, heard them together and they are being disposed of by this common order.

(2) The petitioners are the Educational Institutions programming and running number of courses to impart education to the needy students. The petitioner-Institutions situate outside the State of Chhattisgarh. In terms of memorandum of understanding entered into between the

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petitioners and Pt. Ravi Shankar Shukla University (for short 'the University'), the petitioner-Institutions have been recognized and authorized to act as Institutions of Information and Guidance Centres/Study Centres of Institute of Distance Education of the University. In pursuance of the above Memorandum of Understanding, the Registrar of the University sent the guidelines for conducting of annual examinations for the academic year 2005 with the timetable to the petitioner-Institutions. Accordingly, the petitioner-Institutions conducted the M.A. first year and B.A. first year examinations and certain other examinations also. When the results of the above examinations were awaited, the Director of Institute of Distance Education, vide his letter dated 18.08.2002 addressed to the petitioner-Institutions directed them to initiate admission process for the academic session 2005-2006 and complete the same on or before 30.09.2005. Accordingly, the petitioner-Institutions initiated the admission process and virtually completed the admissions. At that stage, the Director of Institute of Distance Education vide his letter dated 20.09.2005 directed the petitioner-Institutions to stop admission for the academic session 2005-2006 while cancelling his earlier letter dated 18.08.2005. That was followed by a Notification No.1625/Conf./D.E./2005, dated 24.09.2005 issued by the Registrar of the University cancelling all the examinations which were organized and conducted by the petitioner-Institutions on the alleged ground of mass-copying.

(3) At that stage, the petitioner-Institutions have filed these writ petitions for quashing the direction issued by the Director of Institute of Distance Education dated 20.09.2005 as well as the Notification issued by the Registrar of the University dated 24.09.2005 and for consequential

reliefs. Along with the writ petitions, the petitioners moved M.(W.).Ps. for interim relief. This Court by its interim order dated 27.10.2005, directed the respondents not to disturb admissions of the students made in pursuance of the directions contained in the letter dated 18.08.2005 issued by the Director of Institute of Distance Education. That interim order is still in operation.

(4) Opposing the writ petitions, on behalf of the University and its authorities, return has been filed. In the return, the action of the University cancelling all the examinations organized and conducted by the petitioner-Institutions is sought to be defended by contending that there was mass-copying in the examinations organized and conducted by the petitioner-Institutions. Alternatively, it was also contended that in view of the Judgment of Supreme Court in **Prof. Yashpal and another Vs State of Chhattisgarh and others**[1] and also having regard to the provisions of Section 7 of the Chhattisgarh University Act, the University cannot continue the Distance Education Programme outside the State of Chhattisgarh.

(5) I have heard the learned counsel for the parties. Smt. Fouzia Mirza, learned counsel for the petitioner-Institutions would contend that the impugned direction issued by the Director of Institute of Distance Education as well as the notification issued by the Registrar of the University dated 24.09.2005 are liable to be quashed if not on any other ground, but, on the ground of utter violation of the principles of natural justice and fair play in action and for violation of Article 14 postulates. Learned counsel would also contend that the University authorities have

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collected considerable sums of money from each of the petitioners while Activation of different courses and also towards corpus fund, the application fee etc., and though the University has cancelled all the examinations, they have not chosen to refund the moneys collected from the petitioners. She would conclude by contending that the impugned actions is arbitrary and unreasonable.

(6) Shri Pramod Verma, learned Addl. Advocate General appearing for the State and University authorities, on the other hand, would support the impugned action by contending that in view of the judgment of the Supreme Court in **Prof. Yashpal and another Vs State of Chhattisgarh and others**[1] and also having regard to the provisions of Section 78 of the Act, the continuation of the Distance Education Programme outside the State of Chhattisgarh would be illegal and, therefore, the University is left with no option but to scrap the said Programme. However, with his fairness, learned Addl. Advocate General would submit that he was not in a position to support the impugned actions insofar as they violate the principles of natural justice.

(7) I do not think it necessary for me to decide the larger question whether the University is justified in scrapping the Distance Education Programme outside the State of Chhattisgarh in view of the judgment of Supreme Court in **Pro. Yashpal and another Vs. State of Chhattisgarh**[1] or having regard to the provisions of Section 7 of the Act in the present proceedings for more than one reason. The Court is well advised not to undertake resolution of hypothetical issue that does not arise for decision in this case. The petitioner has not challenged the action of the University scrapping the Distance Education Programme

outside the State of Chhattisgarh. I leave that issue open to be decided in an appropriate legal proceeding.

(8) The impugned actions, that is to say, the direction issued by the Director of Institute of Distance Education on 20.09.2005 and the Notification issued by the Registrar of the University on 24.09.2005 cancelling all examination conducted by the petitioner-Institutions could not be sustained on first principle governing administrative actions. Affected should be appraised is a Constitutional creed flowing from Article 14 postulates. It is trite that the impugned actions of the University authorities affect the interests and rights of the petitioners. The University having invited the applications, having entered into a MOUs with the petitioner-Institutions whereby and whereunder the petitioner – Institutions were authorized to organize the courses and conduct examinations for the students admitted by them, having directed the petitioner-Institutions to make admissions before a cut-off date prescribed by the University itself for the academic session 2005-2006, ought not have abruptly cancelled all the examinations organized and conducted by all the petitioners on the alleged ground of mass-copying. In the Notification issued by the Registrar of the University dated 24.09.2005, except stating that the examinations are cancelled due to mass-copying, the details of mass-copying are not set out. It is an admitted position that before the Director, Institute of Distance Education issued letter dated 20-09-2005 and the Registrar of the University issued Notification dated 24.09.2005, none of the University authorities did issue any notice to the petitioner-Institutions to know or have their say/explanation with regard to the allegation of mass-copying. The action of the University, therefore,

amounts to condemning a person unheard. The action apparently is vitiated not only on account of violation of principles of natural justice but also on account of violation of the mandates of Article 14, i.e., fairness, reasonableness and non-arbitrariness. On that short ground, I allow these writ petitions and quash the impugned Notification dated 24-09-2005 issued by the Registrar of University as well as the impugned direction issued by the Director, Institute of Distance Education dated 20-09-2005 against which W.P. Nos.5217 of 2005 and 5218 of 2005 have been filed. In the facts ad circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice